

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES**

Re: Application of: Guy GENTET et al.
Application No.: 10/573,642
Filed: August 20, 2008
Art Unit: 3663
Examiner: Erin M. Boyd
Attorney Docket No.: 12928/10027; 569.1013
Title: **A NUCLEAR FUEL ASSEMBLY INCLUDING AN
INTERNAL REINFORCING DEVICE**

Mail Stop: APPEAL BRIEF – PATENTS
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

April 29, 2010

APPELLANTS' REPLY BRIEF UNDER 37 C.F.R. §41.41

Sir:

Appellants submit this Reply Brief for consideration of the Board of Patent Appeals and Interferences (the "Board") in response to the Examiner's Answer dated March 3, 2010 and in support of their appeal of the Advisory Action dated October 7, 2009 and the Final Rejection dated May 8, 2009. Appellants respectfully reassert each of the arguments asserted in Appellants' Brief dated November 10, 2009, and provide herein only a rebuttal of arguments raised in the Examiner's Answer.

No fee is believed required. If any fee is required at this time, the Assistant Commissioner is authorized to charge payment of the same to Deposit Account No. 50-0552.

ARGUMENTS

The following additional remarks are submitted for consideration by the Board under 37 CFR §41.41.

Rejections under 35 U.S.C. §102

Claims 15 to 19 and 21 to 28 were rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 5,625,657 to Gallacher et al. (hereinafter “Gallacher”).

The Examiner cites to Webster’s New Basic Dictionary for the definition of “secure” and “fasten,” but fails to provide any copy of the cited reference. Thus, there is no support. As such, the Examiner’s Answer is attempting to take Official Notice, and does not comply with the reliance of this assertion. See MPEP 2144.03. Therefore the only definition on record was previously provided by the applicant. The definition of the word “secured” is “firmly fixed” or “fastened” as previously submitted with the Appeal Brief. “Fasten,” also previously submitted, means “to attach firmly to something else, as by pinning or nailing” and “to close, as by fixing firmly in place.” Additional definitions found online include “The Merriam Webster Online” dictionary which defines “secured” as “to hold fast” or “to make fast,” and “fasten” meaning “to make fast and secure” or “to fix firmly or securely.” Applicants fail to see the definitions provided by the Examiner, “to connect” or “to join,” anywhere.

It is clear the objective of the present invention is to increase the stiffness or lateral rigidity of the assembly. (Substitute Specification page 9, lines 7 to 9). Therefore, even if the definition asserted by the Examiner is an accurate definition, it is clear from the filed specification for the present invention and the filed responses that the term “secured” in the present invention is intended to mean “firmly fixed or fastened.”

The Examiner also contends that “one of ordinary skill in the art would fully know that spacer grids allow for limited shifting between the grid and guide tube in order to accommodate expansion.” This general assertion is unfounded and incorrect given that spacer grids are usually welded to guide tubes.

For these reasons, in addition to the arguments previously submitted in the Appeal Brief, withdrawal of the rejections under 35 U.S.C. §102(b) is respectfully requested.

Rejections under 35 U.S.C. §102

Claim 20 was rejected under 35 U.S.C. §103(a) as being unpatentable over Gallacher.

The Examiner's Answer asserts that the "reason for extending the repair grid to the spacer grid is to cover damage that is near the spacer grid." No basis can be found in Gallacher for this contention. Indeed, when a full rod is damaged, it is removed from the fuel assembly before positioning the repair grid (See Gallacher Col. 5, lines 58 to 61 and col. 6, lines 1 to 5).

There is simply no reason or motivation in Gallacher to have the repair device extend "longitudinally substantially as far as the spacer grid immediately below the reinforcing device."


For these reasons, in addition to the arguments previously submitted in the Appeal Brief, withdrawal of the rejections under 35 U.S.C. §103(a) is respectfully requested.

CONCLUSION

It is respectfully submitted that the application is in condition for allowance. Favorable consideration of this Reply Brief is respectfully requested.

Respectfully submitted,

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